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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/378,222	08/19/1999	JEFFRY JOVAN PHILYAW	PHLY-24.670	8863

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EXAMINER

THOMPSON, MARC D

ART UNIT	PAPER NUMBER
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2144

DATE MAILED: 04/05/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/378,222

Applicant(s)

PHILYAW ET AL.

Examiner

Marc D. Thompson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 1/28/2004, Amendment F, Paper #29.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-17, 19 and 20 is/are rejected.
- 7) ☒ Claim(s) 9 and 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Request for Continued Examination***

1. A request for continued examination under 37 CFR §1.114, including the fee set forth in 37 CFR §1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR §1.114, and the fee set forth in 37 CFR §1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR §1.114.
2. Amendment F, Paper #29, received 1/22/2004, has been entered into record.
3. Claims 1-20 remain pending.

### ***Priority***

4. This application is a continuation-in-part of Patent Number 6,098,106, previously pending application number 09/151,530.
5. The effective filing date for the subject matter defined in the pending claims originally disclosed in the parent application is 9/1/1998. All new matter disclosed in the present application and expressed in the claims is entitled to an effective filing date of 8/19/1999.

### ***Drawings***

6. The Examiner contends that the drawings submitted on 3/26/2001 are acceptable for examination proceedings.

***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 6, 15, 19 and 20 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

9. Claims 6 and 15 recites “the transmitted information regarding the unique header code comprises substantially all of the unique header code information” in Lines 1-2 of the claims. The term “substantially” renders this claim indefinite due to the inability to ascertain precisely how much (or what fraction thereof) of the recited “unique header code” is required as part of the “transmitted information” in order fall within scope of the claim.

10. Claims 19 and 20 recite “the unique code”. This term lacks proper antecedent basis. Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. §103(a), the Examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR §1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

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invention was made in order for the examiner to consider the applicability of 35 U.S.C. §103(c) and potential 35 U.S.C. §102(f) or (g) prior art under 35 U.S.C. §103(a).

13. Claims 1-8, 10-17, and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Palmer et al. (U.S. Patent Number 5,905,865), hereinafter referred to as Palmer, in view of Watanabe (U.S. Patent Number 6,163,803), hereinafter referred to as Watanabe, further in view of would have been obvious to one of ordinary skill in the art at the time the invention was made.

14. Palmer disclosed the invention substantially as claimed. Palmer disclosed the synchronizing of additional, related network retrieved data with digitally stored or received video and audio data. See Column 6, Lines 47-64. This retrieved information was enacted using Internet connection manipulation without human interaction, i.e. automatically. See Column 6, Lines 3-6, and Column 7, Lines 7-12. Palmer disclosed both combination of network locators in the actual video/audio signal, out of band broadcast of locators, and transmission of locators from remote sites. See Column 1, Lines 60-67, Column 2, Lines 25-33, Column 5, Lines 22-43, Column 5, Lines 59-62, and Column 8, Lines 5-19. Palmer also disclosed the use of an “intermediate node” (in the network) which received and redirected URL requests to the appropriate server(s) and compared decisions with the contents of user profiles. See Column 5, Lines 44-62, and Column 7, Lines 28-45. These URL designations were additionally resolved by DNS servers on the network in order to result in a physical address of a network device for information retrieval, providing yet another intermediate node involved with information retrieval. The “playing”, “detecting”, and “assembly” of the provided information embedded within multimedia information was described by Palmer in sufficient detail to enable one of ordinary skill in the art to implement the invention substantially as claimed.

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15. While Palmer disclosed the embedding of unique resource locators (URLs) (routing information) in broadcasted audio/video data (Column 5, Lines 59-62), Palmer remained silent as to specifics required to enact this type of functionality in a playback system as suggested in Column 8, Lines 5-23. While Palmer specifically disclosed the use of embedded address data in digitally represented data, the provision for stored multimedia file(s) and the extraction of URL address information from a digitally stored audio signal retrieved over a network, where the extracted information which was used to look up associated information in a centralized database was not expressly disclosed.

16. In the same art of network resource encoding and resultant information delivery, Watanabe disclosed a method and system for encoding network resource locators into stored and delivered digital data for display of remotely stored related information. See, inter alia, Column 4, Lines 28-55. Watanabe also disclosed the embedding/encoding of network resource designators specifically with audio signals, and the extraction of the network designators during playback of the audio information. See Column 6, Lines 8-26, and Column 9, Lines 53-56. The URL signal(s) were disclosed as part of the audible signal, resulting in a “perceivable tone”, *alternatively/preferably* hidden from listener detection. See Column 6, Lines 59-65, and Column 7, Lines 44-49. Also see Column 18, Line 66 through Column 19, Line 2. The system also automatically retrieved the data according to the specified designator(s). See Column 9, Lines 36-42. Lastly, since Watanabe specifically provided this functionality “applied to any system which can transmit and receive an audio signal” (inter alia, Column 9, Lines 53-56), “as software to realize the foregoing processing procedure that is applied to a personal computer having both of the audio signal receiving function and the function for accessing to the web site

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and displaying web information” (inter alia, Column 11, Lines 38-46), “[it] can be applied to any system so long as it can record and reproduce an audio signal...[using] any audio signal recording medium” (inter alia, Column 13, Lines 6-16), and “a similar effect will be obtained by the invention even in case using any signal so long as it can be transmitted and received as an audio signal” (Column 19, Lines 2-5), it would have been obvious to one of ordinary skill in the art at the time the invention was made, when provided the Watanabe teachings and notoriously well known multimedia (video and/or audio) delivery over a network, that the source of any audio data, the audio transmitter, the audio receiver, the audio URL extractor, and URL information display device(s), all reside on the same computer network. After all, Watanabe specifically disclosed the use of an arbitrary recorded audio signal (inter alia, a personal computer having audio signal reproduction functionality (playback), URL extraction functionality, and web site retrieval and display (inter alia, Column 11, Lines 38-46, and Column 18, Lines 56-65),

17. Incorporation of the Watanabe teachings into the teachings of Palmer would have been obvious to one of ordinary skill in the art for the simple reason that recited functionality drawn to the embedding of URL routing information into an audio stream or recording was fully described in such a way to enable the ordinary artisan to implement it. That is, the embedding of URL routing information and overall functionality drawn to delivery of audio/video associated/related information which was remotely stored provided by Palmer in Column 5, Line 59 through Column 6, Line 29, was fully described in detail in Watanabe, Column 4, Lines 28-55. The systems of Palmer and Watanabe were so similar, that practically identical synopsis of the inventions functionality regarding the inclusion of automatically retrieved Internet information to

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audio/video information were found in Palmer, Column 7, Lines 7-19, and Watanabe, Column 9, Lines 36-42.

18. Thus, since the teachings contain direct suggestion for combination, an individual one of the teachings would have resulted in an ordinary artisan being motivated to search the related arts for related teachings, that is, since the inventions were drawn to the same concept of associated Internet information delivery related with audio/video stored/transmitted information, and both inventions implemented a detailed description of encoding informational parameters in multimedia information for remote information retrieval, the identification and combination of these systems teachings was readily recognized by ordinary artisans. Thus, combination of the teachings would have been obvious to one of ordinary skill in the art at the time the invention was made, resulting in a system fully describing the extraction of URL information by a digitally stored information file retrieved/transmitted over a network, which specified a centralized database for information lookup residing on the same network the audio information was delivered over, i.e., "common network".

Since, all limitations recited in claims 1-8, 10-17, and 19-20, were disclosed by the combination of Palmer and Watanabe, claims 1-8, 10-17, and 19-20 are rejected.

19. Claims 1-8, 10-17, and 19-20 are rejected under 35 U.S.C. §103(a) as being unpatentable over Portuesi (U.S. Patent Number 5,774,666), hereinafter referred to as Portuesi, in view of Sherman (U.S. Patent Number 5,213,337), hereinafter referred to as Sherman, in view of Hudetz et al. (U.S. Patent Number 5,978,773), further in view of what would have been obvious to one of ordinary skill in the art at the time the invention was made.



20. Portuesi disclosed the embedding of URL information in a multimedia presentation, i.e., video with audio. See, inter alia, Column 2, Lines 22-38. The multimedia information was fully capable of being recorded and played back later, e.g., from a computer file, CD, or DVD. See, inter alia, Column 3, Lines 22-29. Further, referenced data was presented during rendering of the digitally stored multimedia information. See Column 2, Lines 39-59. Additional, URL association was enabled to occur specifically with audio information. See Column 3, Lines 30-35, and Column 5, Lines 5-10. The current asserted novelty drawn to a “user perceivable code” was also fully disclosed by Portuesi in Column 6, Lines 12-14; if the displayed hyperlink displays the actual URL address, the code was user perceivable. Thus, Portuesi disclosed the invention substantially as claimed.

21. Portuesi did not disclose two important aspects of the presently claimed and disclosed invention. First, Portuesi did not specifically disclose the use of embedded audio signals which were recognizable to either the rendering machine or a human viewer to effect information retrieval. Second, Portuesi did not specifically disclose effecting information retrieval through the use of a predetermined identification number which corresponded to particular vendor products or services.

22. In regard to embedded audio signals, Portuesi did expressly disclose the encoding of URL information into the digital multimedia. See, inter alia, Column 9, Lines 5-8, and Figure 5, reference numeral 62. This resulted in a digital video signal (including audio) with embedded URL information, expressly disclosed as capable for digital storage on, inter alia, video disk(s). See, inter alia, Column 9, Lines 3-21. While Portuesi provided a single example for express encoding of the URL information into the multimedia file (Column 9, Lines 8-11), the language

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used was intentionally open-ended, suggesting other methods of information encoding as potentially used with the concept of invention. This would have motivated one of ordinary skill in the art at the time the invention was made to explore related teachings to find suitable means for embedding/encoding URL information into multimedia information.

23. In regard to information retrieval based on identification numbers which correspond to particular products or services, the natural extension of information relating to product(s) or service(s) being delivered to a requesting or unsolicited consumer in parallel with video and/or audio advertisements would have been obvious to one of ordinary skill in the art at the time of invention. This would have motivated one of ordinary skill in the art to explore product information retrieval techniques for this purpose; the linking of timely, relevant information corresponding to specific products or services during advertisements would have been recognized as desirable by one of ordinary skill in the art at the time of invention.

24. In the related art of television (video) and radio (audio) and the encoded use of audio controlling signals, Sherman disclosed the embedding of "substantially indiscernible" audio touch tones which effect functionality of a reception device and the use of these embedded tone(s) on recorded media. See, inter alia, Column 2, Lines 28-47, and Column 3, Lines 14-17. The audio enabled value embedding as disclosed by Sherman provided yet another type of information encoding for use in the Portuesi system. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use encoding/embedding as described by Sherman in the encoding/embedding system described by Portuesi in order to encode strings of values in an audio/video presentation corresponding to URL network address(es) to correlate information with the currently rendered video/audio presentation. Since

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the audio tones were "substantially indiscernible", it is clear that the tones were "perceivable", and "user perceivable" as claimed.

25. In the related art of database information look-up, Hudetz disclosed the correlation of identification numbers with particular products and vendor information/offers concerning these product(s) using a network of remote database(s). See, inter alia, Column 3, Lines 17-24. It is also noted that Hudetz specifically disclosed two important details: (1) the encoded identification number(s) were in "human and/or machine readable form" (Column 3, Lines 27-28), and (2) an identification number was input which resulted in retrieval of an actual or logical network address (routing information, as claimed) through use of a [usually, remotely] located database for number to address look-up (Column 3, Lines 25-37). In regard to the latter, in light of these cited portions of the Hudetz teachings, the provision for UPC barcode operation for input of identification number(s) did not preclude the use of other types of input device(s), methods, human or machine actuated input, or specific type(s) of alphanumeric string(s) which resulted in arbitrary identification number(s) to physical or logical network address mapping. See Column 3, Lines 25-37. That is, the use of UPC numeric codes scanned by a peripheral reading device was only one way to achieve the invention as described; a numerical value corresponding to the designated information for database lookup was the crux of the invention as disclosed.

26. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combined system of Portuesi and Sherman providing embedded information within multimedia presentations with the numerical to network address correlation provided by Hudetz, for example, in order to minimize the amount of information added to any given stored or compiled multimedia presentation. Bandwidth conservation and digital storage

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space was widely recognized as an inherent concern in the computer arts, and minimizing the amount of encoded information in a given multimedia presentation would have been readily evident. The provision for a short string, (e.g., eight or ten numbers) which effects the same information transfer functionality as a much longer URL or product identification designation and network address would have been obvious to one of ordinary skill in the art at the time the invention was made. See, inter alia, Hudetz, Column 3, Lines 1-13, and Column 11, Lines 21-27.

27. In short, Portuesi disclosed a digital multimedia transmission incorporating codes used to effect information retrieval over a network at a user location, Sherman provided a method for audio signal embedding also effecting information transfer on a network, and Hudetz used centralized location of URL information for current, proper information delivery. The combination of these teachings, and any/all modification of the Portuesi base system with the remaining teachings would have been obvious to one ordinary skill in the art at the time of invention since all the teachings reside in the same art of network information transfer, and each modular, functional concept elaborated on similar concept(s) provided in the other references.

28. The claimed invention was disclosed by this combination of teachings, and so, claims 1-8, 10-17, and 19-20 are rejected.

### ***Claim Objections***

29. Claims 9 and 18 remain objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. It has been previously asserted, numerous times, that the

detail of the system component interaction of the recited functionality set forth in this claim is sufficient to distinguish over the prior art of record.

***Response to Arguments***

30. The arguments presented by Applicant in the response, Amendment F, Paper #29, received on 1/22/2004, are not considered persuasive. Applicant argues:

1. Applicant makes spurious arguments about distinct networks and the status of individual nodes as part of, or not part of, various logical network designations. Nodes sharing a logical network addressing scheme reside on the same logical network. See, Response, Amendment F, Paper #29, received on 1/22/2004, Pages 8-9 (especially Page 9, Lines 3-4). Applicant argues distinction of network(s) through discussion of physical network segments, sub-networks, and “assembly” of “common networks” using “bridges”. The bottom line remains, in order for terminals to communicate (bidirectionally), they must reside on a “common” network. In fact, the ability to communicate on the network was a criterion for being a network node, as well as utilizing a network level address. While Applicant attempts to confuse the issue of active network participation and/or non-inclusion, it is noted that a terminal/node may be a member of multiple logical networks concurrently, i.e., multiple logical network designations may exist for a particular node. A network level address was notoriously well known and widely understood in the art as a unique address for routing, delivering, and filtering information, e.g., layer 3 in the ISO OSI logical network model. Lastly, the “Internet”, a global communications network, inherently utilized a network level address, e.g., Internet protocol IPv4 or IPv6 address, *identifying each node as a member of the network*. In order for

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communication to occur, node(s) on these logical networks MUST use a network level address to effect the routing of information to/from that device. Thus, the inclusion of all the devices within this network “domain” clearly indicated a “common” network which the machines communicated over.

2. Applicant argues the prior art of record does not teach server (or provider) provided redirection on the same network. It is further noted that Applicant admits the prior art of record disclosed “redirecting” of requests for information. See, Response, Amendment F, Paper #29, received on 1/22/2004, Page 9, Lines 17-20. Distinction on this basis is not persuasive, since Watanabe specifically provided this functionality “applied to any system which can transmit and receive an audio signal” (inter alia, Column 9, Lines 53-56), “as software to realize the foregoing processing procedure that is applied to a personal computer having both of the audio signal receiving function and the function for accessing to the web site and displaying web information” (inter alia, Column 11, Lines 38-46), “[it] can be applied to any system so long as it can record and reproduce an audio signal...[using] any audio signal recording medium” (inter alia, Column 13, Lines 6-16), and “a similar effect will be obtained by the invention even in case using any signal so long as it can be transmitted and received as an audio signal” (Column 19, Lines 2-5). It would have been obvious to one of ordinary skill in the art at the time the invention was made, when provided the teachings above, minimally, in combination with notoriously well known multimedia (video and/or audio) file storage and delivery over a network, that the source of any audio data, the audio transmitter, the audio receiver, the audio URL/code extractor(s), code to URL lookup database, and URL information display device(s), all reside on the same computer network, for example the Internet. Also consider, all these

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functional elements may reside on the same computer (as expressly taught by Watanabe), itself inherently a part of the same network being used to obtain URL information. This logical commonality was inherent and required in order to allow machine addressing, and routing of requests or information to the terminals. Further provision for unique addresses for each terminal/node in the network was inherent. Otherwise, the physical routing of information was impossible. In short, if the terminals communicated using the network, they necessarily reside on the same logical network.

31. Both Examiner and Applicant assert that the combination of Palmer and Watanabe taught the invention substantially as claimed, but together fail to teach the claimed delivery of digital audio information over the same network which is used to obtain information associated with code(d) information contained within the digital audio information. That is, the isolated difference between the art as combined and applied was the inclusion of delivery of the audio information, optionally as a file and/or streaming (or otherwise duplicated/rendered audio program received over the network) to a requesting or receiving terminal, via the same network in which information is retrieved from when a database lookup occurs based on a "unique header code" in the audio program. Examiner is not persuaded that the provision for digitally stored audio using embedded information, where these embedded "codes" were used to lookup network resource address information, where the audio information is atomically, digitally stored and delivered via the same network other resource(s) reside on, was non-obvious to one of ordinary skill in the art at the time of invention based on the teachings cited and applied, and the knowledge within scope of one with ordinary skill. That is, since the information expressly disclosed as digitally stored, and subsequent retrieval over a global network (e.g., Internet) was

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notoriously well known and widely implemented at the time of invention, and the use of the network for other types of network services including, minimally, web page serving, the distinction through use of a single common network does not constitute a non-obvious inventive step at the time of invention. This rationale is detailed above in the actual claim rejection, and remarks, *supra*. Since the teachings detail the “reproduction” of audio pieces, the embedding of information in audio pieces, and digital transmission of the audio information, standard delivery of the audio over an arbitrary global internet would have been obvious. All this being said, the recitation of “commonality” of the network, and the state of all functional devices being a logical part of this logically designated network, will not be held as the novel feature of this claimed invention.

32. Examiner takes Official Notice (see MPEP § 2144.03) that the storage of audio, video, and embedded coded information in a digital file (or set of digitally stored files), and the delivery (including file transfer and streaming of audio data) in a computer networking environment was well known in the art at the time the invention was made. The Applicant is entitled to traverse any/all official notice taken in this action according to MPEP § 2144.03. However, MPEP § 2144.03 further states “See also *In re Boon*, 439 F.2d 724, 169 USPQ 231 (CCPA 1971) (a challenge to the taking of judicial notice must contain adequate information or argument to create on its face a reasonable doubt regarding the circumstances justifying the judicial notice).” Specifically, *In re Boon*, 169 USPQ 231, 234 states “as we held in *Ahlert*, an applicant must be given the opportunity to challenge either the correctness of the fact asserted or the notoriety or repute of the reference cited in support of the assertion. We did not mean to imply by this statement that a bald challenge, with nothing more, would be all that was needed”. Further note



that 37 CFR § 1.671©(3) states “Judicial notice means official notice”. Thus, a traversal by the Applicant that is merely “a bald challenge, with nothing more” will be given very little weight.

33. As a general matter, not only the specific teachings of a reference but also reasonable inferences which an artisan would have logically drawn therefrom may be properly evaluated in formulating a rejection. *In re Preda*, 401 F.2d 825, 159 USPQ 342 (CCPA 1968) and *In re Sherpard*, 319 F.2d 194, 138 USPQ 148 (CCPA 1963). Skill in the art is presumed. *In re Sovish*, 769 F.2d 738, 226 USPQ 771 (Fed. Cir. 1985). Furthermore, artisans must be presumed to know something about the art apart from what the references disclose. *In re Jacoby*, 309 F.2d 738, 226 USPQ 317 (CCPA 1962). The conclusion of obviousness may be made from common knowledge and common sense of a person of ordinary skill in the art without any specific hint or suggestion in a particular reference. *In re Bozek*, 416 F.2d 738, 1385 USPQ 545 (CCPA 1969). Every reference relies to some extent on knowledge of persons skilled in the to complement that which is disclosed therein. *In re Bode*, 550 F.2d 656, 193 USPQ 545 (CCPA 1977). Lastly, *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971), clearly states “any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning, but so long as it takes into account only knowledge which was within level of ordinary skill at the time claimed invention was made and does not include knowledge gleaned only from applicant’s disclosure, reconstruction is proper”.

### ***Conclusion***

34. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Marc Thompson whose telephone number is (703) 308-6750.

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The Examiner can normally be reached on Monday-Friday from 9am to 4pm. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Jack Harvey, can be reached at (703) 305-9705. The fax phone number for this Group is (703) 872-9306.

Inquiries of a general nature relating to the general status of this application or proceeding should be directed to the 2100 Group receptionist whose telephone number is (703) 305-3900.

Marc D. Thompson  
Primary Examiner  
Art Unit 2144

MARC D. THOMPSON  
MARC THOMPSON  
PRIMARY EXAMINER